



**U.S. Department of
Transportation**
Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

DOCKET OST-98-3771/Undocketed

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Applicant: **LIAT (1974) Limited**

Date Filed: April 24, 1998

Relief requested: Emergency application to: Renew exemption from 49 U.S.C. 41301 for (1) scheduled foreign air transportation of persons, property and mail between (a) the coterminal points Antigua and Barbuda, Montserrat, and St. Kitts and Nevis; via the intermediate points Anguilla, the British Virgin Islands, and St. Maarten; and the coterminal points St. Croix, St. Thomas, and San Juan; and beyond to Santo Domingo, Dominican Republic; and (b) the coterminal points Antigua and Barbuda, and St. Kitts and Nevis; via the intermediate points St. Maarten and St. Lucia; and the terminal point Miami; and (2) charter foreign air transportation of persons, property and mail pursuant to 14 CFR 212 of the Department's regulations. Renew statement of authorization pursuant to 14 CFR 212 of the Department's regulations to conduct wet-lease operations for Aerolineas Dominicana between San Juan and Santiago, Dominican Republic.

Background: On June 1, 1998, we found that the public interest warranted reinstatement of LIAT's previously-held authorities. However, we further found that in the circumstances presented we should award these authorities for only a limited term, subject to further review prior to any extension. LIAT allowed its statement of authorization and exemption to expire on June 1, 1997, and August 1, 1997, respectively. We stated that the Department's Office of the Assistant General Counsel for Aviation Enforcement and Proceedings was investigating apparent unauthorized operations of LIAT subsequent to the expiration of its authorities. We found that a 30-day grant of authority to LIAT would allow the carrier to provide service to the public in the markets authorized, while at the same time allowing us to monitor progress on the enforcement proceeding.

Applicant representative: James Christian 202-962-3070

Responsive pleadings: See Notice of Action Taken of June 1, 1998 in Docket OST-98-3771/Undocketed

DISPOSITION

Action: Approved in part; Remainder Deferred

Action date: June 30, 1998

Effective dates of authority granted: July 1 - 30, 1998

Remarks: We found that the public interest warranted a 30-day extension of LIAT's authorities. The Office of the Assistant General Counsel for Aviation Enforcement and Proceedings has been working with the carrier to resolve the enforcement matter. Therefore, we found that a 30-day extension of authority to LIAT would allow the carrier to continue to provide service to the public in the markets authorized, while at the same time allowing us to continue to monitor progress on the enforcement proceeding. We will weigh the status of LIAT's compliance disposition in deciding whether to extend this authority.

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations indicated:

X Standard exemption conditions (attached)

Action taken by: Paul L. Gretch, Director
Office of International Aviation
under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)

CONDITIONS OF AUTHORITY

In the conduct of the operations authorized, the holder shall:

- (1) Not conduct any operations unless it holds a currently effective authorization from its homeland for such operations, and it has filed a copy of such authorization with the Department;
- (2) Comply with all applicable requirements of the Federal Aviation Administration, including, but not limited to, 14 CFR Parts 129, 91, and 36;
- (3) Comply with the requirements for minimum insurance coverage contained in 14 CFR Part 205, and, prior to the commencement of any operations under this authority, file evidence of such coverage, in the form of a completed OST Form 6411, with the Federal Aviation Administration's Program Management Branch (AFS-260), Flight Standards Service (any changes to, or termination of, insurance also shall be filed with that office);
- (4) Not operate aircraft under this authority unless it complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;
- (5) Conform to the airworthiness and airman competency requirements of its Government for international air services;
- (6) Comply with the requirements of 14 CFR Part 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (7) Agree that operations under this authority constitute a waiver of sovereign immunity, for the purposes of 28 U.S.C. 1605(a), but only with respect to those actions or proceedings instituted against it in any court or other tribunal in the United States that are:
 - (a) based on its operations in international air transportation that, according to the contract of carriage, include a point in the United States as a point of origin, point of destination, or agreed stopping place, or for which the contract of carriage was purchased in the United States; or
 - (b) based on a claim under any international agreement or treaty cognizable in any court or other tribunal of the United States.

In this condition, the term "international air transportation" means "international transportation" as defined by the Warsaw Convention, except that all States shall be considered to be High Contracting Parties for the purpose of this definition;

- (8) Except as specifically authorized by the Department, originate or terminate all flights to/from the United States in its homeland;
- (9) Comply with the requirements of 14 CFR Part 217, concerning the reporting of scheduled, nonscheduled, and charter data;
- (10) If charter operations are authorized, comply with the Department's rules governing charters (including 14 CFR Parts 212 and 380); and
- (11) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department, with all applicable orders or regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

This authority shall not be effective during any period when the holder is not in compliance with the conditions imposed above. Moreover, this authority cannot be sold or otherwise transferred without explicit Department approval under Title 49 of the U.S. Code (formerly the Federal Aviation Act of 1958, as amended).

(41301/40109) 12/96